

REMARKS

This is responsive to the Office Action mailed November 30, 2007 ("Office Action").

Claim Rejections – 35 U.S.C. §103

Claims 1, 3-15, 18-23, 26, 27, 29-33, 35, 36, 39, 43 and 46-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pittman et al. (U.S. 5,998,968) ("Pittman") in view of Uribe et al. (U.S. 6,635,369) ("Uribe") and further in view of lino et al. (U.S. Patent No. 6,313,637) ("lino").

Applicant's previous arguments in response to this rejection are hereby incorporated by reference. "The Examiner agrees that a substantial understanding of fuel cell technology is required." Office Action, p. 16. However, the Examiner believes "that one of ordinary skill in this art would have had the knowledge to be able to combine the references to make the claimed invention." Office Action, p. 16. Applicant respectfully disagrees. In this case, as previously described in detail, the prior art elements are not combined according to known methods to yield predictable results. Instead, the present invention requires multi-disciplinary knowledge bases including a substantial understanding of fuel cell theory and a substantial understanding of circuitry theory. This is not a case of "the predictable use of prior art elements according to their established functions." MPEP 2100-116, E8R6. In the present invention, basic elements such as a switch, a pulse generator, and a dielectrically isolated driver are combined in a unique and creative manner to comprise a fuel cell maintenance device. One of ordinary skill in the art would not have predicted the present invention based on the prior art (Pittman, Uribe, and lino). MPEP 2141. "Obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so." MPEP 2143.01 E8R6. The Examiner has not identified the teaching, suggestion, or motivation to combine the Pittman,

Uribe, and lino references in the unique and creative manner of the present invention to comprise a fuel cell maintenance device.

In addition, the present invention's explanation of the fuel cell maintenance device cannot be used to render the present invention obvious. *In re Glaug*, 283 F.3d 1335, 62 U.S.P.Q.2d 1151 (Fed. Cir. 2002). One of ordinary skill in the art would not have arrived at the combination of Pittman, Uribe, and lino without using the explanation of the present invention. Pittman, lino, and Uribe do not teach or suggest how to design the present invention. Impermissible hindsight must be avoided. MPEP 2142. In response, the Examiner contends that "hindsight is permissible to some extent since one cannot search in a vacuum without first understand[ing] what the invention is." Office Action, p. 16. Applicant respectfully disagree. "Impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." MPEP 2142, E8R6. One of ordinary skill the art would not have combined Pittman, Uribe, and lino on the basis of the facts gleaned from the prior art without using the explanation of the present invention.

In summary, Pittman, Uribe, or lino alone or in combination do not teach or suggest how to design a fuel cell maintenance device as disclosed by the present invention. As a result, Claims 1, 3-15, 18-23, 26, 27, 29-33, 35, 36, 39, 43 and 46-54 are not unpatentable over Pittman in view of Uribe and lino. Reconsideration and withdrawal of the rejection of Claims 1, 3-15, 18-23, 26, 27, 29-33, 35, 36, 39, 43 and 46-54 under §103(a) is respectfully requested.

Conclusion

All of the stated grounds of objection and rejection are believed to have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full

and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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